

Summary of Code of Conduct & Grievance Procedure

The Council managed to register its first industry employment code of conduct ever. The Code and Grievance Procedure was published in the Government Gazette on the 3rd of July 2020. The following is a summary of the critical sections of the code and grievance procedure.

Application & Scope

The Code applies to **ALL** Permanent, Contract (Fixed term & Seasonal) and Casual employees.

Rights & Duties of Parties

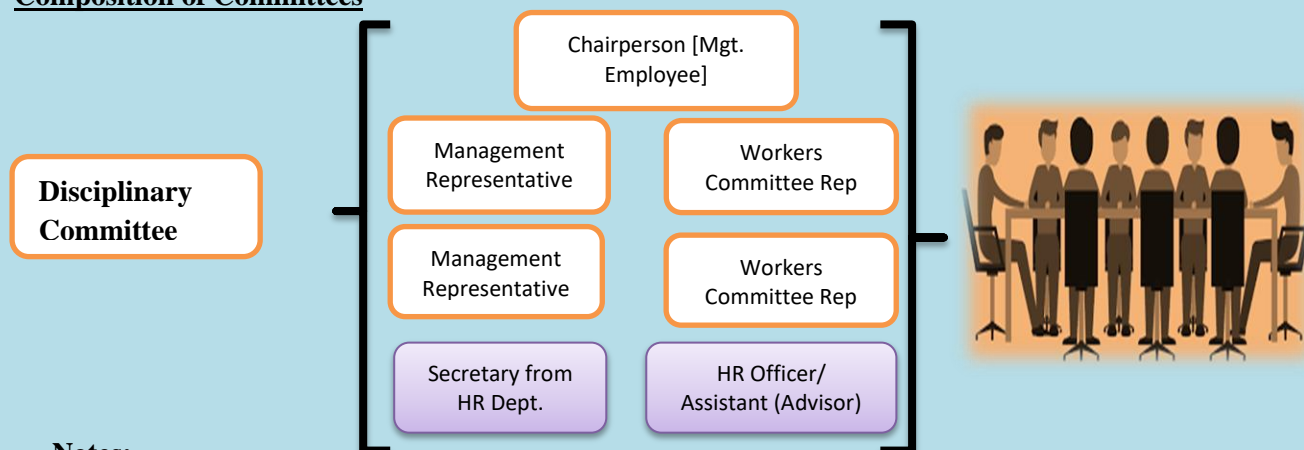
Employees & Employee Organisations	
Rights	Duties
<ul style="list-style-type: none"> • To be heard (audi alteram partem) • To receive just, open and consistent treatment from employers; • To appeal against any disciplinary action taken against them by employers; • To appeal against any determination made on their grievances; • To be represented, at own arrangement by a fellow employee of own choice, workers committee member, registered trade union official or a legal practitioner; • To call and cross examine witnesses; • To address in mitigation before a penalty is imposed; • To be informed of the reasons for a decision in writing; • Through employee representatives, to participate in amending the code. • To be informed of the charges in writing • To be given adequate time to prepare defence. 	<ul style="list-style-type: none"> • To know the standards of conduct and performance expected of them by their employers; • To ensure that they comply with all laws, collective bargaining agreements and other applicable instruments; • To familiarise themselves with the provisions of this code; • To act in good faith with employers; • To inform employers of their grievances; • To work with employers in establishing industrial relations principles subject to the provisions of labour regulations; • To comply with the various employment rules and procedures; • To carry out their contractual duties and responsibilities and follow all reasonable, lawful instructions given to them.

Employer & Employer Associations
<p>Rights</p> <ul style="list-style-type: none"> • To call witnesses to testify on its behalf and cross examine witnesses against them; <p>Duties</p> <ul style="list-style-type: none"> • To maintain fair, just and consistent discipline; • To ensure employees are aware of expected standards of acceptable behaviour of them at the work place • To develop, jointly with worker representatives industrial relations principles in terms of this code and relevant regulations; • To comply with all laws, collective bargaining agreements and other applicable instruments; • To ensure that all employees are familiar with the provisions of this code and other instruments governing employment; • To advise, counsel, reprimand and discipline employees in terms of this code; • To set standards of conduct and performance for employees; • To maintain and exercise discipline in accordance with the provisions of this code and any other relevant enactment; • To promptly and fully resolve employees' grievances; • To ensure that employees are provided with an enabling working environment; • Through employer representative to participate in amending this code; • To advise or take the appropriate action where the employer considers that an employee's behaviour or performance is unacceptable or unsatisfactory; • To ensure that employees have received the necessary training on the provisions of this code.

Authorities/ Institutions in the Administration of the Code & Grievance Procedure & the Roles

Institution	Roles/Duties
Disciplinary Committee/ Disciplinary Officer	<ul style="list-style-type: none"> To hear and determine disciplinary cases To ensure the observance of time limits in hearing and determining cases; To ensure the parties have been accorded their right to be heard To ensure that justice is done and that the right to representation is observed. To ensure that an impartiality is observed in the determination of cases To ensure that the hearing process is done in a systematic and orderly manner To record and keep record of the proceedings.
Appeals Committee;	<ul style="list-style-type: none"> To hear and determine appeals from decisions of the disciplinary committee. To review decisions of the disciplinary committee/disciplinary officer On conclusion of an appeal, to either confirm, vary, reverse or set aside the decision of the disciplinary committee/officer substitute with own its decision.
NEC Appeals Committee	<ul style="list-style-type: none"> To hear and determine appeals from workplace appeal committees To review the decisions of the workplace Appeals Committee When handling an appeal it may call the appellant or decide the case on record; In determining an appeal it may confirm, vary, reverse or set aside the decision of the appeals committee and substitute with its own decision.
Works Council	<ul style="list-style-type: none"> To hear and resolve employees' group grievances in terms of the Grievance Procedure.
Designated Agent	<ul style="list-style-type: none"> To receive appeal cases on behalf of the NEC Appeals Committee and cause the Appeals Committee to dispose the matter in terms of the code; To communicate with the parties and ensure that all necessary documents and notifications are properly served; To advise employers and employees on the general application of the code. To hear matters other than disciplinary cases arising from unresolved grievances.

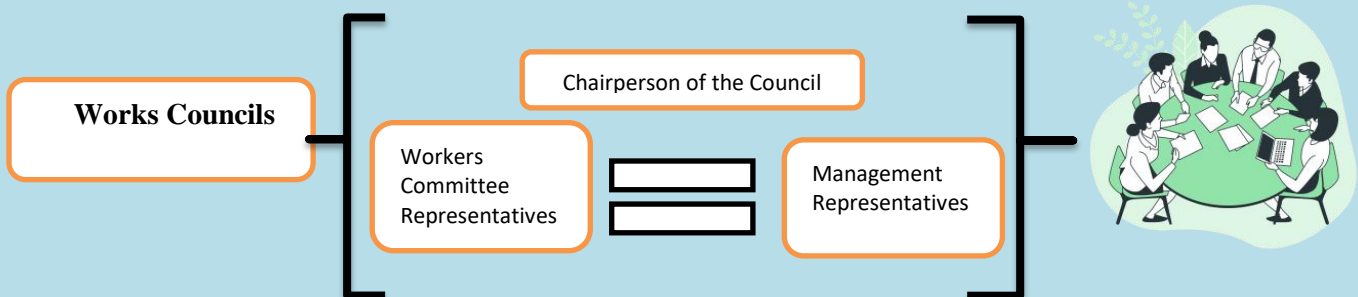
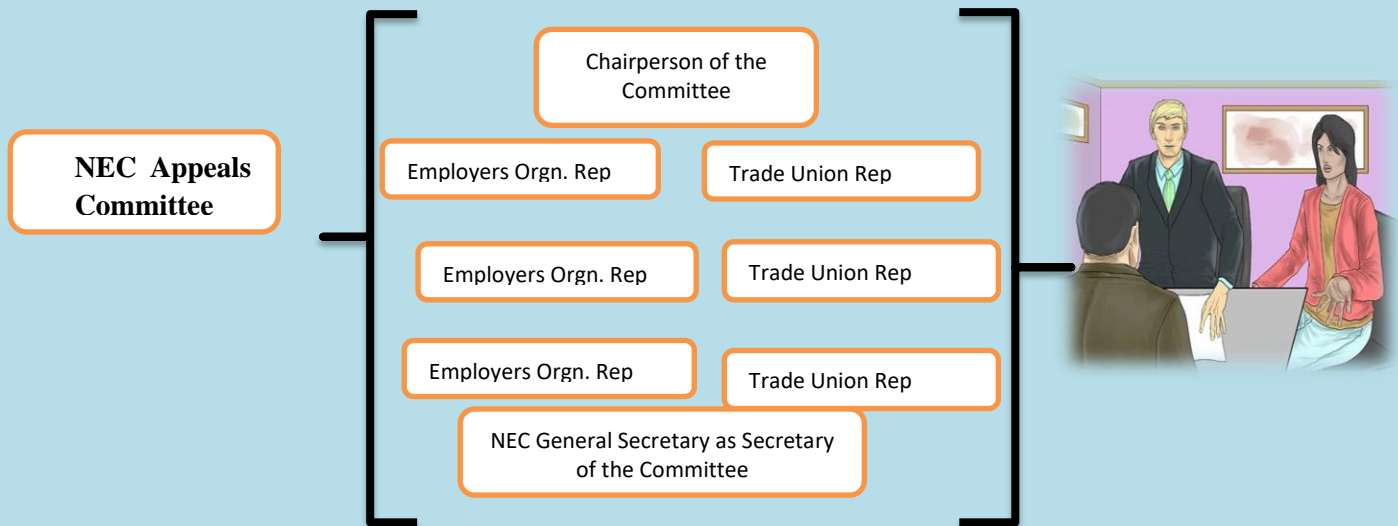
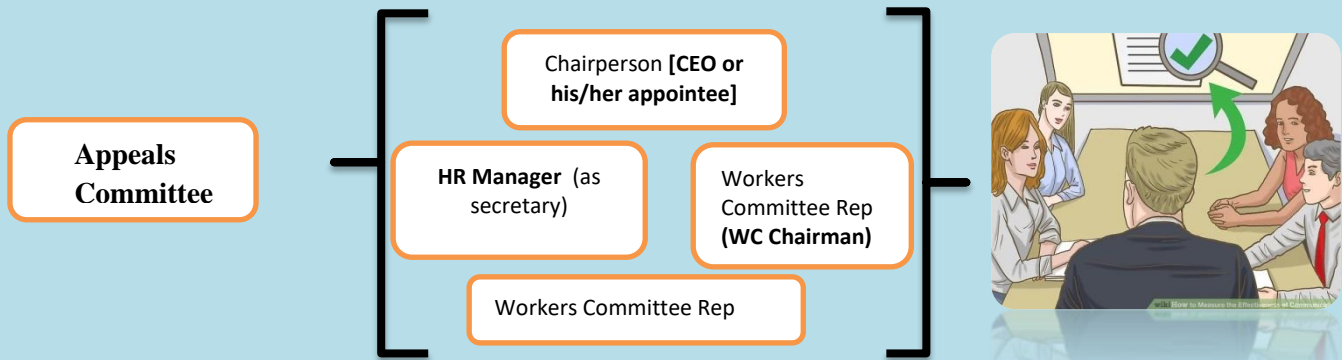
Composition of Committees



Notes:

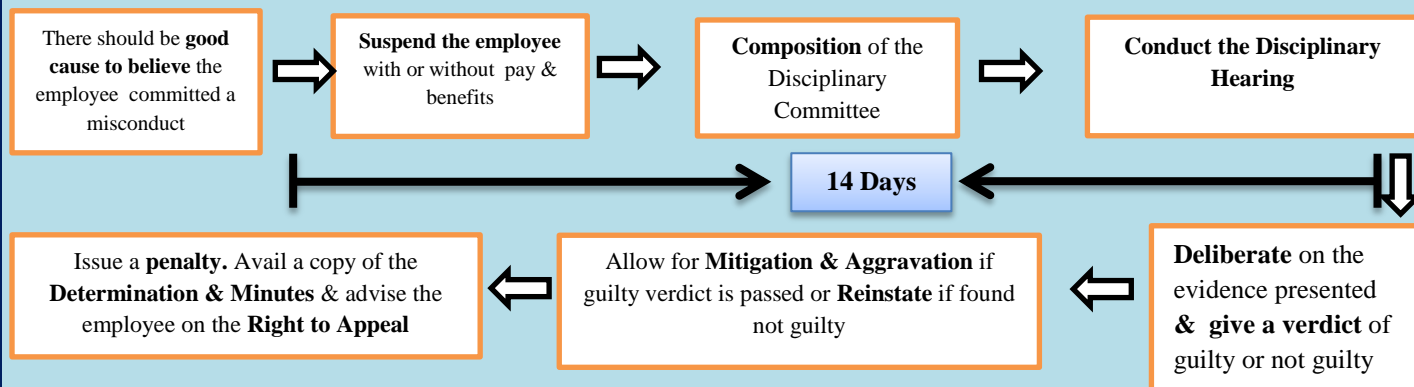
- The secretary's role is only to take minute and has no voting rights.
- The HR Official attends in a advisory capacity and again has no voting rights
- The chairperson has the casting vote in the event of a tie of votes.
- NB:** A **Disciplinary Officer** shall be appointed by an employer to deal with disciplinary cases where there is no workers committee at the workplace.



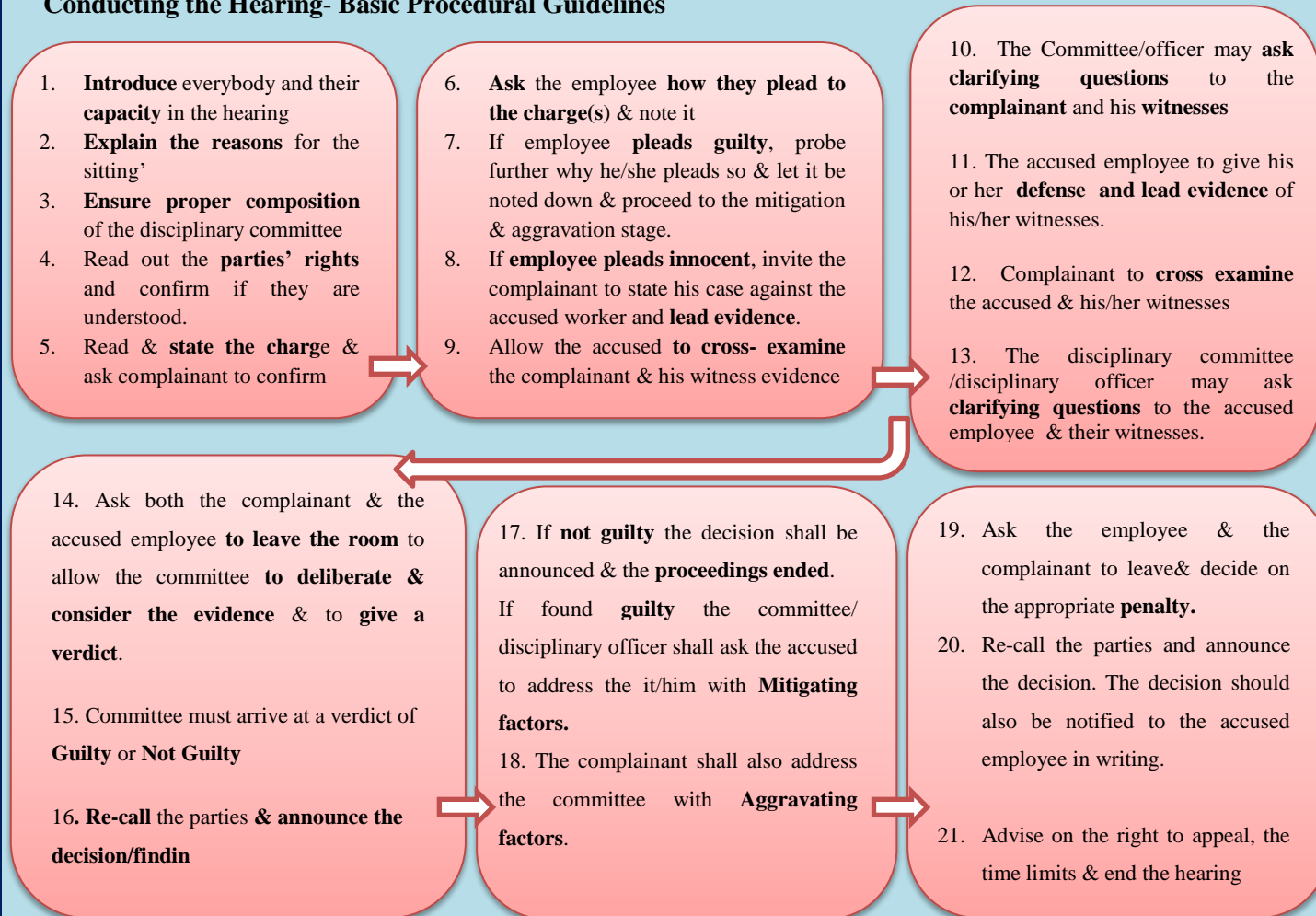


- A Works Council is a forum composed of **an equal number** of representatives of Management and representatives drawn from the Workers Committee.
- The works council shall hear and resolve employees' group grievances in terms of the code.

The General Basic Disciplinary Procedures & Steps



Conducting the Hearing- Basic Procedural Guidelines



Notes

- Witnesses shall be called in one by one to give their testimony after the parties would have presented their cases.
- The decisions of the committee shall be by consensus or by majority vote and in the event of a tie, the chairperson shall have a casting (decisive) vote.

Disciplinary Dispute Resolution Hierarchy

Authority/Tribunal/Court	Dispute Resolution Level	Time-frame to note or initiate appeal	Time-frame to dispose/ finalize
Supreme Court	Final Court of Appeal Level	21 Days – Rule 43(1) Labour Court Rules 2017	Time unspecified
Labour Court	Court Level Appeal	21 Days – Rule 19(1) Labour Court Rules 2017	Time unspecified
NEC Appeals Committee	NEC Level Appeal	7 Working Days to appeal	14 Days to conclude matter
Appeals Committee/AO	Company Level Appeal	7 Working Days to appeal	7 Working Days to conclude matter
Disciplinary Committee/DO	Company Level tribunal	As soon as misconduct is allegedly committed	14 Days to suspend, conduct a hearing & give a decision.
Supervisor/Manager	Company Level (Verbal Warnings)	As soon as misconduct is allegedly committed	One Day to deal with the matter

Penalties & Durations of Validity

The time periods for validity of offences are as follows—

Penalty	Period of Validity
Verbal warning	Three (3) months
1st written warning	Six (6) months
2nd written warning	Nine (9) months
Final written warning	Twelve (12) months

Misconduct Categories & Resultant Penalties

Misconduct Category	Resultant Penalty			
	First Breach	Second Breach	Third Breach	Fourth Breach
Minor acts of misconduct or omission	Verbal Warning	1st written Warning	2nd Written Warning	Final Written Warning
Intermediate acts of misconduct	1st written Warning	2nd Written Warning	Final written warning	Dismissal
Serious acts of misconduct	Final written warning	Dismissal		
Very Serious Acts of Misconduct	Dismissal			

General Guiding Notes

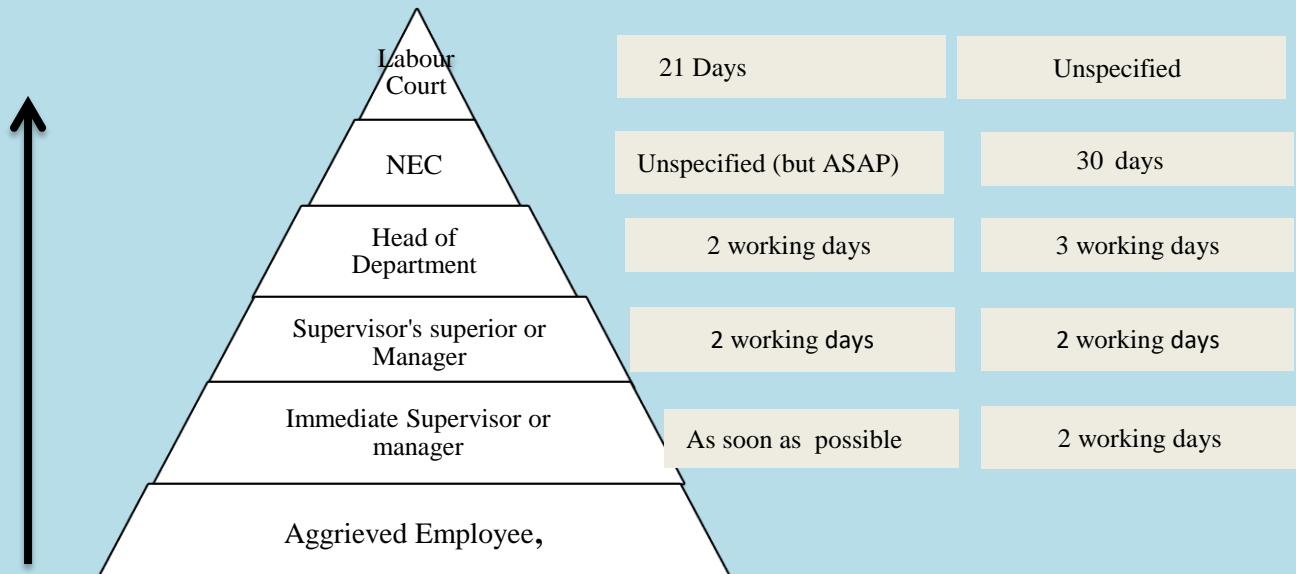
- A supervisor shall only handle matters warranting a verbal warning. Other matters warranting any graver penalty shall require a hearing by the disciplinary committee/ officer.
- The HR Rep who attends the hearing to take down the minutes of proceedings is not part of the disciplinary committee.
- The HR Rep who attends as an advisor shall ensure that the committee /officer adhere to the provisions of the Code and that the process is fair, just and impartial.
- The appeals committee shall be comprised of members who did not participate at the disciplinary stage *-(functus officio)*.
- No Trade Union or Employers Association member shall constitute the NEC Appeals Committee in a case involving an employer from where he/she is employed.
- Disciplinary action shall be initiated as soon as possible where a misconduct is alleged to have been committed.
- Disciplinary matters must be concluded within the stipulated timeframes.
- Any penalty which is still in force at the time of another disciplinary hearing shall be considered at the sentencing (penalty) stage and not at the verdict stage.
- The employee aggrieved by the decisions of the Disciplinary Committee/ Appeals Committee/NEC-Appeals Committee shall note his or her grounds for appeal in writing using the prescribed forms.
- The notice of appeal against the decision of the Disciplinary Committee/officer to the Appeals committee shall come through the HR Manager.
- The notice of appeal against the decision of the Appeals Committee to the NEC Appeals Committee shall come through the Designated Agent.
- The late noting of an appeal shall only be condoned by the appropriate appeals authority if good and sufficient reasons exist

Basic Guiding Principles of the Code & Grievance Procedure

- Full investigation of grievances & of offences before disciplinary action is taken.
- Consistently and fair handling of disciplinary and grievance issues at all levels,
- Compliance with the principles of natural justice i.e.
- The right to appeal to an appropriate level against any decision made or taken.
- The right to be represented at a disciplinary or grievance hearing by a fellow employee, workers committee representatives, trade union official or a legal practitioner at the employee's expense
- Promotion of sound industrial relations through mutual consultation, trust and cooperation between employers and employees;
- The accused employee's innocence until proven guilty in terms of the code;
- Observance of impartiality

Grievance Procedures

Individual grievances-concerns a single worker e.g. abusive language by a foreman, victimisation, refusal to replace or install health & safety equipment.



Group Grievance- is grievance which affects a group of workers. It may arise out of a complaint or problem, e.g. "women are being sexually harassed or are being fired when they become pregnant"

